

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

STEVEN RUBENSTEIN
Plaintiff,

v.

THE UNIVERSITY OF
TENNESSEE, *et al.*,

Defendants.

Case No. 1:19-cv-189

Judge Mattice

**DEFENDANTS AMERICAN ACADEMY OF ACTUARIES AND STEVEN SALKY'S
MOTION TO DISMISS**

Pursuant to Fed. R. Civ. P. 12(b)(6), Defendant American Academy of Actuaries ("Academy") and Steven Salky, move to dismiss Steven Rubenstein's Complaint for a Civil Case (the "Complaint"). As described in the supporting memorandum, Plaintiff's claims against the Academy and Mr. Salky fail to properly plead a cause of action and, given this Court's October 25, 2017 Order in Case No. 1:16-cv-00475, are barred by res judicata. Plaintiff's Complaint should be dismissed with prejudice.

In addition, Mr. Rubenstein's filing of this Complaint violates this Court's prior Order of October 25, 2017, denying Mr. Rubenstein the right to amend the prior Complaint filed in this Court in Case No. 1:16-cv-00475. The Court should admonish Mr. Rubenstein and warn him that any further filings will result in him having to pay the legal fees and expenses of the Academy and Mr. Salky in responding.

Respectfully submitted,

/s/ Dermot Lynch

Dermot Lynch (motion for admission *pro hac vice pending*)
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**CERTIFICATE OF COMPLIANCE WITH ORDER
GOVERNING MOTIONS TO DISMISS**

Pursuant to this Court's Order Governing Motion to Dismiss, undersigned counsel certifies that he sent Plaintiff Stephen Rubenstein a letter by overnight mail on July 16, 2019, seeking to meet and confer with Mr. Rubenstein regarding the withdrawal of the Complaint in this case and the Academy's Motion to Dismiss, to which Mr. Rubenstein did not respond.¹ Further, undersigned counsel certifies that he called Mr. Rubenstein on July 22, 2019, to meet and confer on the same subjects, but did not reach him.

/s/ Dermot Lynch
Dermot Lynch
*Counsel for American Academy of Actuaries
and Steven Salky*

¹ Plaintiff acknowledged receipt of Defendants' letter in a July 22, 2019 filing in a related case. *See* Declaration at 11-12, *Rubenstein v. University of Tennessee, et al.*, No. 16-cv-475 (E.D. Tenn. July 22, 2019) (Doc. 51). But he did not respond with a position on whether he would withdraw the motion to dismiss.

CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2019, a copy of the foregoing was filed electronically. Notice of the filing will be sent to parties by operation of the Court's electronic filing system. In addition, I served a true and correct copy of this motion by regular U.S. mail as listed below.

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/s/ Dermot Lynch
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